REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed May 19, 2005. In the Office Action, the Examiner notes that claims 1-19 are pending, of which claims 1-19 are rejected. By this response, Applicant has amended claims 1, 8 and 13; cancelled claim 7; and added new claims 22 and 23.

The amendments to the claims are fully supported by the Specification and originally-filed claims. For example, the amendments to the claims are supported at least by originally-filed claims 7 and 19; page 4, line 32, to page 5, line 11 of the Specification; and page 11, lines 1-9 of the Specification. New claim 22 is supported at least by page 5, lines 12-20; and by page 10, line 30, to page 11, line 9. New claim 23 is supported at least by page 5, line 31 to page 6, line 14; and by page 11, lines 27-34. Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments to the claims and the new claims.

In view of the foregoing amendments and the following discussion, Applicant submits that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that the Applicant, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

REJECTIONS

35 U.S.C. §103(a)

Claims 1-3, 6-10, 13-16 and 18-19

The Examiner has rejected claims 1-3, 6-10, 13-16 and 18-19 under 35 U.S.C. §103(a) as being anticipated by Thomas Huston et al. (U.S. Patent Application Publication No. 2002/0007402, hereinafter "Thomas") in view of Candelore (U.S. Patent No. 6,057,872, hereinafter "Candelore"). The rejection is respectfully traversed.

Applicant's independent claim 1 recites (emphasis added below):

> "1. A method, comprising the steps of:
> establishing, by a service provider, a resource lease with each of at least one content provider, each content provider storing at least some of a plurality of content assets within said leased resource at at least one service provider location, said leased resource comprising a memory resource;
> fulfilling subscriber requests for available content stored at the at least one service provider location;
> generating usage statistics;
> providing said usage statistics to said at least one content provider;
> selecting, according to said at least one content provider, which content assets are stored in said leased resource; and
> at least one of increasing and decreasing the size of said memory resource in response to said usage statistics."

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The Thomas and Candelore references singly or in combination fail to teach or suggest Applicant's invention as a whole.

Specifically, the Thomas and Candelore references, alone or in combination, fail to teach or suggest at least the "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics" as recited in the claim as amended.

The Thomas reference discloses a method by which content of a content provider is refreshed in a cache on a traffic server of an access provider. In the method, a difference engine detects if a newer version of content exists, and if it does, retrieves and stores the newer version in the cache and deletes the older version from the cache. The Examiner alleges that the Thomas reference teaches increasing or decreasing the leased resource in response to usage statistics. However, the Applicant respectfully disagrees. Specifically, the Examiner alleges (emphasis added below):

> "Regarding claim 7, Thomas in view of Candelore teaches a method as discussed in the rejection of claim 6. Thomas also discloses pre-fetch content into cache to provide preferential access to the content by client 228. Thomas further discloses deleting a particular content if it remains in cache for a specified time without a request for the particular content (par. 0056-par. 0057). As a result, the leased resource is increased or decreased in response to the usage statistics (e.g. catch space will be increased if more content is pre-fetched or decreased if the particular content is deleted)."

The Applicant respectfully submits that the Examiner is erroneously equating adding or removing content from a cache with increasing or decreasing the size, i.e. storage capacity, of the cache. However, the Applicant respectfully submits that adding or removing content from the cache does not increase or decrease the size of the cache, it merely adds or removes specific files that are stored there. For example, the Thomas reference specifically discloses in the section cited by the Examiner (i.e. paragraphs 0056 and 0057) (emphasis added below):

> "[0056] Pre-fetch may be implemented on a content-specific or a user and content-specific basis. For example, a content provider may contract with an access provider to have all of the content provider's content stored on origin server 204 pre-fetched into traffic server 218 to provide preferential access to the content by client 228. As another example, the content provider may contract with the access provider and the user associated with client 228 to have the content provider's content that is specific to the user pre-fetched into traffic server 218.
>
> [0057] According to one embodiment of the invention, pre-fetched content is automatically deleted from a cache after the expiration of a specified period of time during which no user requests for the content are received. This essentially provides a "housekeeping" function to delete "old" pre-fetched content from caches. For example, suppose that particular content is pre-fetched from origin server 204 into cache 238 of traffic server 218. A specified time limit may be employed to limit the amount of time that the particular content remains in cache 238 without a request for the particular content."

Thus, the Thomas reference discloses that pre-fetched content is automatically deleted from a cache after the expiration of a specific time period. Therefore, the Thomas reference does not teach or suggest that the size of the cache is increased or decreased, but rather that what is stored in the cache is deleted. By contrast, claim 1 recites that the size of the leased memory resource is increased and decreased in response to the usage statistics. This is very different than adding or removing particular content assets to or from the memory resource.

Furthermore, the Candelore reference fails to bridge the substantial gap between the Thomas reference and Applicant's invention. The Candelore reference discloses that "[d]igital coupons are selectively transmitted in a communication network to subscriber terminals for promotional purposes" (Abstract). The Examiner relies upon the Candelore

reference to allegedly "read[s] on the claimed limitation of rules for content assets according to at least one of the service provider or the content provider, the rules defining promotion and packaging of the content assets" (page 5 of the Office Action mailed on 5/19/05). However, the Applicant respectfully notes that this limitation has been removed from the claim as amended. Furthermore, the Candelore reference does not teach or suggest the "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics".

Therefore, the Thomas and Candelore references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

As such, Applicant submits that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claims 8 and 13 recite substantially similar relevant limitations. As such, Applicant submits that independent claims 8 and 13 are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, dependent claims 2-3, 6-7, 9-10, 14-16 and 18-19 depend directly from independent claims 1, 8 and 13 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, Applicant submits that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicant respectfully requests that the rejections be withdrawn.

Claims 4-5, 11-12

The Examiner has rejected claims 4-5 and 11-12 under 35 U.S.C. §103(a) as being unpatentable over Thomas in view of Candelore and further in view of Carlin. Applicant respectfully traverses the rejection.

For at least the reasons discussed above, claim 1 is patentable under 35 U.S.C. §103(a) over Thomas in view of Candelore because neither of these references singly or in combination teaches or suggests Applicant's invention as claimed in claim 1.

Specifically, neither of the references teaches or suggests at least the claimed "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics".

The Carlin reference fails to bridge the substantial gap between Thomas and Candelore and Applicant's claimed invention. Carlin discloses a multi-provider online service in which a plurality of service providers can offer services to subscribers through a host computer and a communications line. However, Carlin does not teach at least the "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics".

Thus, Thomas, Candelore and Carlin, either singly or in combination, fail to teach or suggest Applicant's claimed invention as a whole. Therefore, claim 1 is patentable over Thomas, Candelore and Carlin under 35 U.S.C. §103. Moreover, since claim 8 includes relevant limitations similar to those discussed above in regards to claim 1, claim 8 is also patentable over Thomas, Candelore and Carlin under 35 U.S.C. §103. Furthermore, claims 4-5 and 11-12 depend, either directly or indirectly, from independent claims 1 and 8 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, these dependent claims are also patentable over Thomas, Candelore and Carlin under 35 U.S.C. §103.

Claim 17

The Examiner has rejected claim 17 as being unpatentable over Thomas in view of Candelore as applied to claim 13 and further in view of Martin et al. (U.S. Patent No. 6,606,607, hereinafter "Martin"), under the provisions of 35 U.S.C. §103(a). Applicant's respectfully traverse the rejection.

For at least the reasons discussed above, claim 13 is patentable over Thomas in view of Candelore, since Thomas and Candelore singly or in combination fail to teach or suggest Applicant's claimed invention as a whole.

Specifically, none of the references teaches or suggests at least the claimed "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics".

Martin does not bridge the gap between the method of claim 13 and the combination of Thomas and Candelore. Martin discloses an auction process which includes coupling of buyer and administrator interfaces to a central computer via an

information network. However, Martin does not teach at least the "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics".

Thus, Thomas, Candelore and Martin, either singly or in combination, fail to teach or suggest Applicant's claimed invention as a whole. Therefore, claim 13 is patentable over Thomas, Candelore and Martin under 35 U.S.C. §103. Furthermore, claim 17 depends directly on independent claim 13, and recites additional limitations thereof. As such and at least for the same reasons as discussed above, this dependent claim is also patentable over Thomas, Candelore and Martin under 35 U.S.C. §103.

NEW CLAIMS

New claims 22 and 23 are patentable at least because they depend from independent claim 1, which is patentable at least for reasons discussed above.

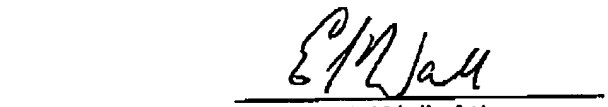
CONCLUSION

In view of the foregoing amendments and remarks, Applicant believes that this application is in condition for allowance. Entry of this amendment, reconsideration of this application, and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. or Stephen Guzzi at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 8/9/05



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